

Exhibit A



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October 24, 2024

In re Blue Cross Blue Shield Antitrust Litigation MDL 2406, No. 2:13-cv-20000 (N.D. Ala.)

To Whom It May Concern:

We write on behalf of Blue Cross Blue Shield Association (“BCBSA”) and each Blue Cross Blue Shield Plan licensee¹ (collectively, with BCBSA, “Defendants”) in the matter of *In re Blue Cross Blue Shield Antitrust Litigation*, Case No. 2:13-cv-20000-RDP, MDL No. 2406 (the “MDL”), pending in the United States District Court for the Northern District of Alabama (the “MDL Court”) before the Honorable R. David Proctor.

In compliance with the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1711 *et seq.*, Defendants hereby serve upon you notice that a motion for approval of a proposed class action settlement has been filed in the MDL Court.²

¹ The Blue Cross Blue Shield Plan licensees include: Aware Integrated, Inc.; Blue Cross and Blue Shield of Alabama; Blue Cross and Blue Shield of Kansas City; Blue Cross and Blue Shield of Kansas, Inc.; Blue Cross and Blue Shield of Massachusetts, Inc.; Blue Cross Blue Shield of Michigan Mutual Insurance Company; Blue Cross & Blue Shield of Mississippi, A Mutual Insurance Company; Blue Cross and Blue Shield of North Carolina; Blue Cross & Blue Shield of Rhode Island; Blue Cross and Blue Shield of South Carolina; BlueCross BlueShield of Tennessee, Inc.; Blue Cross and Blue Shield of Wyoming; California Physicians’ Service; Cambia Health Solutions, Inc.; Capital Blue Cross; CareFirst, Inc.; Elevance Health Inc.; Gemstone Holdings, Inc.; GoodLife Partners, Inc.; GuideWell Mutual Holding Corporation; Hawaii Medical Service Association; Health Care Service Corporation, a Mutual Legal Reserve Company; HealthyDakota Mutual Holdings; Highmark Inc.; Horizon Healthcare Services, Inc.; Independence Health Group, Inc.; Lifetime Healthcare, Inc.; Louisiana Health Service & Indemnity Co.; PREMIERA; Prosano, Inc.; USABLE Mutual Insurance Company; Wellmark, Inc.; and their controlled affiliates.

² The proposed Settlement Class is defined as “all Providers in the U.S. (other than Excluded Providers, who are not part of the Settlement Class) who currently provide or provided healthcare services, equipment or supplies to any patient who was insured by, or who was a Member of or a beneficiary of, any plan administered by any Settling Individual Blue Plan during the Settlement Class Period.” (Settlement Agreement ¶ 1(iiii).) The “U.S.” is defined to mean “all fifty (50) states, the District of Columbia, and Puerto Rico.” (Settlement Agreement ¶ 1(uuuu).) “Excluded Providers” are defined as: “(i) Providers owned or employed by any of the Settling Defendants; (ii) Providers owned or employed exclusively by Government Entities or Providers that exclusively provided services, equipment or supplies to members of or participants in Medicare, Medicaid or the Federal Employee Health Benefits Programs; (iii) Providers that have otherwise fully released their Released Claims against the Releasees prior to the

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Counsel for Provider Plaintiffs³ and counsel for Defendants (the “Parties”) engaged in arm’s-length negotiations over the course of nine years with the assistance of five highly regarded mediators at different times. These negotiations led to the Parties’ execution of the enclosed Settlement Agreement. Nothing in the Settlement Agreement constitutes an admission of liability or wrongdoing by Defendants.

Pursuant to 28 U.S.C. § 1715(b) and in connection with the proposed settlement, Defendants provide copies of the following documents via File Transfer Protocol (“FTP”):

- The Consolidated Fourth Amended Provider Complaint, and earlier versions of the Consolidated Complaints;
- The Court’s Order scheduling a Preliminary Approval Hearing for 9:00 a.m. Central Time on Thursday, November 14, 2024;
- Provider Plaintiffs’ Motion for Preliminary Approval of Proposed Class Settlement and Memorandum of Law in Support thereof, with Exhibits, including:
 - Exhibit A – Settlement Agreement⁴;

Execution Date, including but not limited to Providers that were members of any of the settlement classes in *Love v. Blue Cross and Blue Shield Association*, No. 1:03-cv-21296-FAM (S.D. Fla.); or (iv) Providers that exclusively provide or provided (a) prescription drugs; (b) durable medical equipment; (c) medical devices; (d) supplies or services provided in an independent clinical laboratory; or (e) services, equipment or supplies covered by standalone dental or vision insurance. Any Provider that falls within the exclusion(s) set forth in clauses (i), (ii) or (iv) of this Paragraph 1(gg) for only a portion of the Settlement Class Period is a Settlement Class Member that may recover in the settlement as set forth in the Plan of Distribution.” (Settlement Agreement ¶ 1(gg).) The Settlement Class Period is July 24, 2008 to October 4, 2024. (See Settlement Agreement ¶ 1(III).)

³ There were two types of cases consolidated in the MDL—cases brought by subscribers of Defendants’ health insurance products (the “Subscriber Track”), and cases brought by providers who provided healthcare services to Defendants’ members (the “Provider Track”). This letter refers to the Provider Track of the MDL. The Subscriber Track was previously resolved by a separate class action settlement (“Subscriber Settlement”), notice of which was provided under the CAFA by letter dated February 16, 2021. The Subscriber Settlement received final approval from the MDL Court on August 9, 2022. See *In re Blue Cross Blue Shield Antitrust Litig.*, No. 2:13-CV-20000-RDP, 2022 WL 4587618 (N.D. Ala. Aug. 9, 2022). The United States Court of Appeals for the Eleventh Circuit (“Eleventh Circuit”) affirmed final approval of the Subscriber Settlement on October 25, 2023; the Eleventh Circuit declined rehearing *en banc* on January 26, 2024; and the United States Supreme Court declined the writ of certiorari on June 24, 2024. See *In re Blue Cross Blue Shield Antitrust Litig. MDL 2406*, 85 F.4th 1070 (11th Cir. 2023), *cert. denied sub nom. Behenna v. Blue Cross Blue Shield Ass’n*, 144 S. Ct. 2686 (2024), and *cert. denied sub nom. Home Depot U.S.A., Inc. v. Blue Cross Blue Shield Ass’n*, 144 S. Ct. 2687 (2024).

⁴ The Parties to the Settlement Agreement also signed a confidential supplemental agreement, which is referenced in Paragraph 51 of the Settlement Agreement and which was submitted *in camera* to the Court. It is typical for agreements of this nature to remain confidential. See *In re HealthSouth Corp. Sec. Litig.*, 334 F. App’x 248, 250 n.4 (11th Cir. 2009); *Manual For Complex Litigation* § 21.631 (4th ed. 2004). The Parties are also negotiating an Escrow Agreement related to the Settlement Agreement. The Escrow Agreement has not yet been finalized.

- Provider Plaintiffs' Motion for Approval of a Plan for Notice and Appointment of Claims Administrator, Memorandum of Law in Support thereof, and Supplement to the Memorandum of Law in Support thereof, with Exhibits, including:
 - Exhibit C – Amended Declaration of Roma Petkauskas Regarding Proposed Notice Plan, which contains Proposed Notices of the Settlement and Proposed Claim Forms and Instructions.

To access these documents, please use the following FTP credentials:

URL: <https://fileshare.cravath.com/>
Username: 012062_00001_102324_01
Password: 25fcoODw6gGH

Because the Settlement Class consists of a broad group of providers in the U.S. who currently provide or provided healthcare services to any Blue Cross Blue Shield member in any part of the country over a sixteen-year period, it is not feasible at the present time to provide the names (or number) of class members of the proposed Settlement Class who reside in each state or the estimated proportionate share of the claims of such members to the entire settlement. We anticipate, however, that the Settlement Class is sufficiently numerous as to include class members residing in all 50 U.S. states, as well as the District of Columbia, and may include class members residing in U.S. territories.

The Defendants submit this notice to comply with any and all obligations they may have under CAFA. Please contact me if you have any questions or if you request hardcopies of any of the documents.

Respectfully,

/s/ Karin A. DeMasi

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